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FISCAL IMPACT STATEMENT

LS 7016

BILL NUMBER: HB 1242

NOTE PREPARED: Jan 15, 2008

BILL AMENDED:

SUBJECT: Business Tax Matters.

FIRST AUTHOR: Rep. Pelath

FIRST SPONSOR:

BILL STATUS: As Introduced

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill provides that various business tax incentives, deductions, credits, and refunds: (1) expire December 31, 2009; and (2) shall be reviewed by the Legislative Council or a committee designated by the Council. It requires the Legislative Council or a committee designated by the Council to review the expiration of business tax incentives, deductions, credits, and refunds during the interim preceding the interim during which the incentive, deduction, credit, or refund is set to expire. It also makes conforming changes.

The bill provides that the adjusted gross income of a corporation that is derived from sources within Indiana includes the apportioned part of the business income of each unitary business in which the corporation cooperates as a member of a unitary group. It also defines the terms "unitary business" and "unitary group".

Effective Date: July 1, 2008; January 1, 2009; July 1, 2009.

Explanation of State Expenditures: *Legislative Services Agency (LSA)* - LSA could incur a significant increase in personnel costs to provide staffing and research assistance to the Legislative Council in conducting the review of the tax provisions being sunsetted under this bill. The additional costs would depend on Legislative Council decisions.

The bill requires the Legislative Council or a committee designated by the Legislative Council to review the tax exemptions, deductions, credits, and refunds set to expire at the end of 2009 under the bill. The review is to take place during the interim period, and the Legislative Council or committee is to make a recommendation to the General Assembly about the extension of the tax provision. The review must include consideration of the influence of the tax provision on (1) job creation; (2) actual or anticipated economic

impact; (3) minority employment opportunities; (4) diversification of the workforce; and (5) state and local revenues, including property taxes. The recommendation about extending the tax provisions are due by November 1, 2009.

Department of State Revenue (DOR) - The DOR will incur additional expenses to revise tax forms, instructions, and computer programs to reflect the changes in reporting requirements and changes to various business tax incentives, deductions, credits, and refunds. Ultimately, the fiscal impact of this bill will depend on administrative and legislative actions. The January 15, 2008, state vacant position report indicates the DOR has 112 vacant full-time positions.

Explanation of State Revenues: *Summary* - This bill provides for the expiration, depending on legislative action, of various business tax incentives, deductions, credits, and refunds after December 31, 2009. The bill also requires corporations to employ “combined reporting” for purposes of the corporate Adjusted Gross Income (AGI) Tax by treating a business composed of a parent corporation and one or more subsidiaries as a single corporation. The revenue impact of this bill is indeterminable. Any impact that may arise relating to the expiration of tax provisions could commence in FY 2010 or FY 2011, depending upon its effect on quarterly estimated tax payments. Any impact from the combined reporting requirement could commence in FY 2009 or FY 2010, depending upon its effect on quarterly estimated payments.

Sunset of Tax Provisions - The table below (1) lists the tax exemptions, deductions, credits, and refunds covered by the bill; (2) reports the number of taxpayers claiming these exemptions, deductions, credits and refunds for the latest available year; and (3) the tax impact of the amounts claimed. (Note: The tax impact of an exemption or deduction is computed by multiplying the tax rate by the exemptions or deductions claimed by taxpayers. The tax impact of credits is equal to the amount of credits claimed by taxpayers.) Data is currently unavailable for the property tax, sales tax, fuel tax, auto rental excise tax, and insurance tax exemptions, deductions, credits, and refunds covered by the bill. Under the bill, these provisions would expire at the end of 2009.

Revenue from the Utility Receipts Tax, the corporate AGI Tax, the Financial Institutions Tax, and the Insurance Premiums Tax is distributed to the state General Fund.

Revenue from the individual AGI Tax is distributed to the state General Fund (86%) and the Property Tax Replacement Fund (14%).

Sales Tax revenue is deposited in the Property Tax Replacement Fund (50%), the state General Fund (49.067%), the Public Mass Transportation Fund (0.76%), the Commuter Rail Service Fund (0.14%), and the Industrial Rail Service Fund (0.033%).

Revenue from the Motor Carrier Fuel Surtax is distributed to the state Highway Fund (45.5%), the Motor Vehicle Highway Account (45.5%), and the Motor Carrier Regulation Fund (9%).

The first \$25 M in revenue from the Special Fuel Tax is distributed to local units (60%) and the Department of Transportation (40%); with the remainder distributed to the Motor Vehicle Highway Account (75%) and the Highway, Road, and Street Fund (25%).

Utility Receipts Tax Provisions Sunseted by the Bill	2005 Tax Impact	Filers
Sales of Utility Services to Various Facilities Exemption	-	-
Sales of Utility Services to a Member of Controlled Group Exemption	-	-
Tax Deduction of \$1,000	8,433	609
Tax Deduction for Bad Debts	1,104,904	148
Tax Deduction for Depreciation Expenses	108,538	6
Tax Deduction for Empty Container Deposits	1,425	N/A
Tax Deduction for Sales of Bottle Water or Gas	101	N/A

Sales Tax Provisions Sunseted by the Bill		
Tangible Personal Property by a Food Producer Exemption	-	-
Purchases made by a Producer or Agri. Commodities Exemption	-	-
Purchases made by a Producer of Tangible Personal Property Exemption	-	-
Purchases made by Producer of Tangible Personal Prop. Used in Ag. or Manu. Exemption	-	-
Purchases of Personal Property Consumed in Various Businesses Exemption	-	-
Purchases of Personal Property Used in Production Exemption	-	-
Purchases of Tangible Personal Property used by a Utility or Contruction Company Exemption	-	-
Purchases of Tangible Personal Property used for resale, rental or leasing Exemption	-	-
Purchases of Tangible Personal Property used by Various Public Utilities Exemption	-	-
Purchases of Tangible Personal Property used by a Utility that Sells Gas Exemption	-	-
Purchases of Tangible Personal Property used by a Utility that Sells Water Exemption	-	-
Purchases of Tangible Personal Property used by a Utility that Treats Wastewater Exemption	-	-
Purchases of Tangible Personal Property by a Person who Sells Telecom. Services Exemption	-	-
Purchases of Tangible Personal Property by a Person Providing Public Transport Exemption	-	-
Purchases of Rolling Stock Exemption	-	-
Purchases of Tangible Personal Property to Comply with Environmental Standards Exemption	-	-
Purchases of Tangible Personal Prop. Made in Connection with Commercial Printer Exemption	-	-
Purchases of Tangible Personal Property made by a Prof. Racing Team Exemption	-	-
Purchase of R&D Equipment Exemption	-	-
Purchases of Tangible Personal Prop. Used in Creating Motion Picture Production Exemption	-	-
Certain Purchases of an Aircraft by a Nonresident Exemption	-	-
Tax Deduction for Bad Debts	-	-
Tax Deduction for a Collection Allowance	-	-
Tax Deduction for Assistance Extended to a Heating Assistance Program	-	-
Tax Refund for 50% of Sales Tax Attributable to Purchase of R&D Equipment	-	-

Individual Income Tax Provisions Sunseted by the Bill	2005 Tax Impact	Filers
Net Operating Loss Deduction	9,684,231	5,934
Enterprise Zone Employment Tax Credit	419,088	161
Teacher Summer Employment Tax Credit	14,262	17
Research Expense Tax Credit	5,167,760	849
Prison Investment Tax Credit	77,037	21
Enterprise Zone Loan Interest Tax Credit	71,096	28
Neighborhood Assistance Tax Credit	2,287,740	3,895
Enterprise Zone Investment Cost Tax Credit	151,875	11
Industrial Recovery Tax Credit	4,580	N/A
Military Base Recovery Tax Credit	3,797	7
Military Base Investment Cost Credit	2,702	6
Capital Investment Tax Credit	120,658	18
Maternity Home Tax Credit	3,914	10
Riverboat Building Tax Credit	3,611	6
Community Revitalization Enhancement District Tax Credit	291,249	94
Venture Capital Investment Tax Credit	2,670,183	302
Hoosier Business Investment Tax Credit	1,255,599	61
Blended Biodiesel Tax Credit	0	0
Ethanol Production Tax Credit	0	0
Coal Gasification Technology Investment Tax Credit	0	0
Health Benefit Plan Tax Credit	-	-
Small Employer Qualified Wellness Program Tax Credit	-	-

Corporate Income Tax Provisions Sunseted by the Bill	2004 Tax Impact	Filers
Net Operating Loss Deduction	175,507,405	7,564
Foreign Source Dividend Deduction	197,589,997	320
Export Sales Deduction (Foreign Gross Up)	558,999,073	523
Enterprise Zone Employment Tax Credit	656,537	48
Teacher Summer Employment Tax Credit	0	0
Research Expense Tax Credit	15,797,019	116
Enterprise Zone Loan Interest Tax Credit	1,357,899	33
Neighborhood Assistance Tax Credit	86,964	38
Industrial Recovery Tax Credit	0	0
EDGE Credits	30,006,570	N/A
Headquarters Relocation Tax Credit	-	-
Hoosier Alternative Fuel Vehicle Manufacturer Tax Credit	-	-
Gasoline Tax Base		
Exemption for Gasoline Used by Various Distributors	-	-

Corporate Income Tax Provisions Sunseted by the Bill	2004 Tax Impact	Filers
Exemption for Sales of Gasoline by an Airport or Marine Facility Operator	-	-
Distributor Allowance for Evaporation, Shrinkage, and Collection Expenses	-	-
Tax Refund, other than licensed distributor, for lost or destroyed gasoline in excess of 100 gal.	-	-
Tax Refund to a Local Transit System	-	-
Tax Refund to a Person for Gasoline Used for Various Motor Vehicles	-	-

Special Fuel Tax Provisions Sunseted by the Bill		
Exemption for Special Fuel Sold to Various Entities	-	-
Exemption for Fuel Consumed by an Intercity Bus on Highways Outside of Indiana	-	-
Deduction for Special Fuel Tax Paid by a Supplier that has been Uncollectible from a Purchaser	-	-
Credit for the Collection Allowance to a Supplier	-	-

Motor Carrier Fuel Surtax Provisions Sunseted by the Bill		
Credit for Fuel Used to Propel Equipment	-	-
Auto Rental Excise Tax		
Exemptions for various vehicle rentals	-	-
Supplemental Exemptions for various vehicle rentals in Marion County	-	-

Fire Insurance Premium Tax Provisions Sunseted by the Bill		
Exclusion for Considerations Received from Reinsurance	-	-

Gross Premium Tax Provisions Sunseted by the Bill		
Exclusion for Considerations Received from Reinsurance	-	-

Combined Reporting - Generally, combined reporting requires a corporation to (1) report for income tax purposes all of the income earned by the corporation, including the income earned by subsidiaries engaged in a unitary business with the corporation; and (2) pay tax on the amount of this unitary business income apportioned to Indiana. The research regarding the long-term effect of combined reporting on state revenues is mixed. Some studies report a long-run increase in revenue resulting from combined reporting; however, some studies report finding no significant change in revenues. The bill imposes the combined reporting requirement beginning in tax year 2009. Revenue from the corporate AGI Tax is distributed to the state General Fund.

Explanation of Local Expenditures:

Explanation of Local Revenues: This bill provides for the expiration, depending on legislative action, of various property tax exemptions and deductions, and a property tax credit, after December 31, 2009. The table below lists the tax exemptions, deductions, and credits covered by the bill.

Assuming that property levels remain intact, the elimination of the various property tax deductions and exemptions would result in an increase in the tax base. The larger tax base would produce lower tax rates, shifting part of the property tax burden to properties that currently receive these deductions and exemptions from all other taxpayers. The lower tax rates would also reduce TIF proceeds.

Property Tax Provisions Sunseted by the Bill	Tax Impact	Filers
Exemption for Corporate Waterworks Systems	-	-
Exemption for Industrial Waste Control Facility	-	-
Exemption for Certain Air Pollution Control System Facilities	-	-
Exemption for Certain Commercial Passenger Aircrafts	-	-
Exemption for Tangible Property owned by a Corporation and Used for a Public Library	-	-
Exemption for Certain Personal Property Awaiting Shipment Out-of-State	-	-
Exemption for Personal Property of a Nonresident Stored While in Transit	-	-
Exemption for Truck Chassis Owned by a Nonresident Motor Vehicle Dealer	-	-
Exemption for Vehicles Owned by Out-of-State Dealer and Brought into Indiana for Wholesale Mkt	-	-
Deduction for Improvements to Comply with Fertilizer Storage Rules Adopted by State Chemist	-	-
Deduction for Personal Property located within an Enterprise Zone in Indianapolis	-	-
Deduction for Inventory	-	-
Deduction for Personal Property in Service in an Economic Revitalization Area	-	-
Deduction for vacant building located in Economic Revitalization Area that Owner Tends to Occupy	-	-
Deduction for Aircrafts	-	-
Deduction for Aircrafts used to Provide Intrastate Airline Service	-	-
Deduction for Personal Prop. other than Inventory that Owner uses to Create or Retain Employment	-	-
Deduction for Personal Prop., Inventory, or both, placed in service in Maritime Opportunity District	-	-
Deduction for Real Property Located in a Brownfield Revitalization Zone	-	-
Deduct. for Pers. Prop. Used to Manufacture Recycled Components from Coal Combustion Products	-	-
Deduction for Personal Property Located in an Enterprise Zone	-	-

State Agencies Affected: All.

Local Agencies Affected: All.

Information Sources: Bruce, Donald, John Deskins, and William Fox. On the Extent, Growth, and Efficiency Consequences of State Business Tax Planning. University of Tennessee, Creighton University. 2005; Bruce, Donald, John Deskins, and William Fox. On the Relative Distortions of State Sales, Corporate Income and Personal Income Tax. University of Tennessee, Creighton University. 2006; Luna, LeAnn. E-Mail interview. 28 Dec 2007; Mazerov, Michael. Closing Three Common Corporate Income Tax Loopholes Could Raise Additional Revenue for Many States. 23 May 2003. Center on Budget and Policy Priorities. 27

Dec. 2007 www.cbpp.org; Mazerov, Michael. State Corporate Tax Shelters and the Need for "Combined Reporting" 26 Oct. 2007. Center on Budget and Policy Priorities. 27 Dec. 2007 <www.cbpp.org>. OFMA Income Tax Databases, 2004 and 2005.

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